



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 04-48
July 21, 2010

NASA FAR SUPPLEMENT (NFS) 1809.500, ORGANIZATIONAL CONFLICT OF INTEREST (OCI)

PURPOSE: To provide an agency-wide Organizational Conflict of Interest (OCI) Guide.

BACKGROUND: This PN revises the NASA FAR Supplement (NFS) to provide a link to the electronic version of the NASA OCI Guide. A team of Headquarters and Center Procurement and Legal representatives developed the OCI Guide to provide the Contracting Officers, attorneys, and requiring technical organizations with the information they need to identify organizational conflicts of interest and design suitable resolution strategies.

ACQUISITIONS AFFECTED BY CHANGES: This Guide is applicable to all acquisitions where an OCI may arise.

ACTION REQUIRED BY CONTRACTING OFFICERS: Advise all acquisition personnel of the availability of the OCI Guide to aid them in understanding OCI's.

CLAUSE CHANGES: Not Applicable.

PARTS AFFECTED: Part 1809.

REPLACEMENT PAGES: You may use the enclosed pages to replace 9:5, 9:6, and 9:7 of the NFS.

TYPE OF RULE AND PUBLICATION DATE: These changes do not have a significant effect beyond the internal operating procedures of NASA and do not have a significant cost or administrative impact on contractors or offerors, and therefore do not require codification in the Code of Federal Regulations (CFR) or publication for public comment.

HEADQUARTERS CONTACT: Bill Roets, Office of Procurement, Contract Management Division, (202) 358-4483, email: william.roets-1@nasa.gov.

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William P. McNally
Assistant Administrator for Procurement

Enclosures

DISTRIBUTION LIST:
PN List

(a)(2)(A) If the offeror indicates that it has been indicted, charged, convicted, or had a civil judgment rendered against it, the contracting officer shall immediately notify the Director, Headquarters Acquisition Integrity Program, with a copy to the Office of Procurement (Program Operations Division), providing details as known, and shall await a response before awarding the contract.

(B) If the offeror discloses information that indicates a need for a debarment or suspension determination, the contracting officer shall report the facts to the Director, Headquarters Acquisition Integrity Program, with a copy to the Office of Procurement (Program Operations Division), in accordance with 1809.470.

1809.470 Reporting of suspected evasive actions and causes for debarment or suspension.

1809.470-1 Situations requiring reports.

A report incorporating the information required by 1809.470-2 of this section shall be forwarded by the procurement officer to the Director, Headquarters Acquisition Integrity Program, with a copy to the Office of Procurement (Program Operations Division), when a contractor --

(a) Has committed, or is suspected of having committed, any of the acts described in FAR 9.406-2 and 9.407-2; or

(b) Is suspected of attempting to evade the prohibitions of a debarment or suspension imposed under the FAR by changes of address, multiple addresses, formation of new companies, or other devices.

1809.470-2 Contents of reports.

Each report shall be coordinated with local counsel and shall include substantially the following information, if available:

- (a) Name and address of the contractor.
- (b) Names of the principal officers, partners, owners, or managers.
- (c) All known affiliates, subsidiaries, or parent firms, and the nature of the affiliation.
- (d) A description of the contract or contracts concerned, including the contract number and office identifying numbers or symbols, the amount of each contract, the amounts paid the contractor and still due, and the percentage of work completed and to be completed.
- (e) The status of vouchers.
- (f) Whether the contract has been assigned pursuant to the Assignment of Claims Act, and, if so, the name and address of the assignee and a copy of the assignment.
- (g) Whether any other contracts are outstanding with the contractor or any affiliates, and, if so, their amount, whether they are assigned pursuant to the Assignment of Claims Act, and the amounts paid or due on them.
- (h) A complete summary of all pertinent evidence. If a request for debarment or suspension is based on an indictment or a conviction, provide the evidence upon which the indictment or conviction is based.
- (i) An estimate of any damages, sustained by the Government as a result of the contractor's action, including an explanation of the method used in making the estimate.
- (j) Recommendation as to (1) whether the contractor should be suspended or debarred, (2) whether any limitations should be applied to such action, (3) whether current contracts should be terminated, and (4) the period of any debarment.
- (k) As an enclosure, a copy of the contract(s) or pertinent excerpts, appropriate exhibits, testimony or statements of witnesses, copies of assignments, and other relevant documentation.

Subpart 1809.5--Organizational and Consultant Conflicts of Interest

1809.500 Scope of subpart.

(a) The Assistant Administrator for Procurement has authorized the procurement officer to take those actions reserved in FAR Subpart 9.5 for the head of the contracting activity. However, see 1809.503 regarding waivers.

(b) The NASA Organizational Conflict of Interest (OCI) Guide provides agency-wide guidance to individuals relative to identifying as well as resolving OCIs and is available at http://prod.nais.nasa.gov/portals/pl/documents/OCI_Guide.pdf.

1809.503 Waiver.

The Administrator has designated the Assistant Administrator for Procurement as the approval authority for waivers under FAR 9.503. The procurement officer shall forward requests for waivers under FAR 9.503 to the Assistant Administrator for Procurement (Code HS) for action.

1809.505-4 Obtaining access to sensitive information.

(b) In accordance with FAR 9.503, the Assistant Administrator for Procurement has determined that it would not be in the Government's interests for NASA to comply strictly with FAR 9.505-4(b) when acquiring services to support management activities and administrative functions. The Assistant Administrator for Procurement has, therefore, waived the requirement that before gaining access to other companies' proprietary or sensitive (see 1837.203-70) information contractors must enter specific agreements with each of those other companies to protect their information from unauthorized use or disclosure. Accordingly, NASA will not require contractors and subcontractors and their employees in procurements that support management activities and administrative functions to enter into separate, interrelated third party agreements to protect sensitive information from unauthorized use or disclosure. As an alternative to numerous, separate third party agreements, 1837.203-70 prescribes detailed policy and procedures to protect contractors from unauthorized use or disclosure of their sensitive information. Nothing in this section waives the requirements of FAR 37.204 and 1837.204.

1809.506 Procedures.

(b) The approving official is the procurement officer when the installation has source selection authority and the Assistant Administrator for Procurement (Code HS) when NASA Headquarters has that authority.

1809.507 Solicitation provisions and contract clause.**1809.507-2 Contract clause.**

The contracting officer may insert a clause substantially the same as the clause at 1852.209-71, Limitation of Future Contracting, in solicitations and contracts.

Subpart 1809.6--Contractor Team Arrangements**1809.670 Contract clause.**

The contracting officer shall insert the clause at 1852.209-72, Composition of the Contractor, in all construction invitations for bids and resulting contracts. The clause may be used in other solicitations and contracts to clarify a contractor team arrangement where the prime contractor consists of more than one legal entity, such as a joint venture.